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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,938	06/27/2001	Keith A. Merwin	D-7173-1	5571
7590	06/22/2004		EXAMINER	
Arthur G. Yeager, P.A. Suite 1305 112 West Adams Street Jacksonville, FL 32202			HOOSAIN, ALLAN	
			ART UNIT	PAPER NUMBER
			2645	
			DATE MAILED: 06/22/2004	10

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/892,938	MERWIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Allan Hoosain	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 13 May 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,6-15,17 and 18 is/are rejected.
- 7) Claim(s) 4,5 and 16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 4-5,16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 recites the limitation "the order" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3,6-15,17-18 are rejected under 35 U.S.C. 102(e) as being anticipated by **Hanson** (US 6,269,151).

As to Claim 1, with respect to Figures 2-6, **Hanson** teaches a method of scheduling and receiving by an individual or corporation (a user) a message delivery call (reminder call) from a message delivery processor (an automated computerized voice message storage and redelivery system (SRS)) and receiving by an individual or corporation (a subscriber) a reminder call from the SRS comprising the steps of:

A - providing to the SRS when a reminder call is to be made by the SRS (Figure 5, label 102 and Col. 4, lines 10-13);

B – providing to the SRS by a subscriber each telephone number that is to be called by the SRS to deliver a reminder call and instructions (information) as to whether the telephone associated with the number will be emergency, live delivery or after hours (answered by a human voice or a digital voice) (Figure 5, label 104 and Figure 4, labels 92,96 and Col. 4, lines 16-23);

C – providing to the SRS the message to be included in the reminder call (Figure 5, label 126 and Col. 3, lines 17-22);

D – recording by the SRS the information provided in steps A, B, and C (Col. 3, lines 17-23);

E – calling a telephone number of step B as provided in step A (Figure 5, label 106 and Col. 4, lines 49-58);

F – if the telephone number of step E is answered, determining by the SRS of a human voice or digital voice has answered the telephone (Figure 5, labels 124,128 and Col. 5, lines 30-54); and

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G – selecting the manner in which the message of step C will be delivered based upon the determination of step F (Figure 5, labels 124,128, Col. 4, lines 16-40 and Col. 5, lines 30-54).

As to Claim 2, **Hanson** teaches the method of Claim 1 wherein step G includes the steps of:

H - if a digital voice answers the telephone of step F, determining if the digital voice is an answering machine (an automated attendant answering system (AAA), a voice mail system (VMS), or an automated answering machine (AAM)) (Col. 5, lines 30-54).

As to Claim 3, **Hanson** teaches the method of claim 2 further including the step of:

I – if an automated answer machine answers the call, providing by the SRS the message recorded in step D to the AAM (Col. 6, lines 55-60).

As to Claims 6-7,10-12, **Hanson** teaches the method of Claim 1 wherein step A includes the step of:

H – providing non-blackout days (a date) a reminder call is to be made by the SRS (Col. 7, lines 24-40 and Col. 5, lines 1-16).

As to Claim 8, **Hanson** teaches the method of Claim 1 wherein step B includes the step of:

H – providing to the SRS more than one telephone number that is to be called (Col. 3, lines 20-22).

As to Claim 9, **Hanson** teaches the method of Claim 8 wherein step B includes the step of:

I – providing to the SRS the time frame (order) that the telephone numbers requested in step K are to be called (Col. 7, lines 28-37).

As to Claims 13-14, **Hanson** teaches the method of Claim 12 wherein step E includes the steps of:

M – calling the first telephone number in the time frame (order) obtained pursuant to step L (Col. 4, lines 16-18, Col. 7, lines 31-37);

N – if the telephone is not answered by either a human or digital voice calling the second telephone number obtained pursuant to step L (Col. 6, lines 3-12); and

O – if the second telephone number obtained is called and is not answered by either a human or a digital voice, calling the third telephone number if one was obtained pursuant to step L (Col. 6, lines 3-12).

As to Claims 15,17-18, with respect to Figures 1-5, **Hanson** teaches an automated, computerized voice message storage and redelivery system comprising:

a computer means for executing software commands (Figure 1, label 10),

a telephone connection means operatively connected to said computer means for calling and answering a telephone call from a remote location (Figure 2 and Col. 3, lines 35-45),

a signal recognition means operatively connected to said telephone connection means and to said computer means for determining if a telephone called from said telephone connection means has been answered by a human voice or by a digital voice (Col. 5, lines 30-37),

memory means operatively connected to said computer means for storing voice messages for remembering the number of each remote telephone (Col. 3, lines 65-67),

program means for operating said computer means for receiving, recording, and redelivery of voice messages (Col. 5, lines 2-16),

means for determining if the telephone number is answered and determining by said signal recognition means if a human voice or digital voice has answered the telephone (Col. 5, lines 30-37);

means for providing that if a digital voice answers the telephone whether said digital voice is an answering machine (an automated attendant answering system (AAA), a voice mail system (VMS), or an automated answer machine (AAM)) (Col. 5, lines 30-37).

#### *Response to Arguments*

6. Applicant's arguments filed in the 4/12/04 Remarks have been fully considered but they are not persuasive because of the following:

(a) Examiner disagrees that **Hanson**'s "sender" is not a "subscriber" and that the sender does not give information on which telephones will be answered by answering machines or live recipients.

**Hanson** teaches at Col. 2, lines 58-62, Col. 3, lines 14-22, Col. 4, lines 4-13 a "person" who is a subscriber because the message is sent on behalf of the "person" or as a representative of a corporation. In addition, the message is stored in a "user" portion of a database by the "person". The teaching at Col. 4, lines 15-17, 20-23 of a "sender" instructing message delivery, when taken in context, is really the "person" or subscriber referred to in the preceding passages.

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**Hanson** teaches instructions for messages to be delivered “after hours” which is inherent for answering machine operation. And, instructions for emergency delivery or live delivery which is inherent for live recipients (Col. 4, lines 16-23 and Col. 2, lines 1-15).

Based upon the above, Examiner hopes that Applicants will now see that **Hanson's** system does not guess how a call is to be answered.

(b) Examiner regrets indicating to Applicants that amendments, as indicated in the 4/13/04 Interview Summary, would overcome **Hanson**. Examiner respectfully invites Applicants to contact Examiner to discuss other possible amendments for overcoming the prior art of record.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Merwin et al.** (US 6,731,725) teach message delivery with user identifications.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
**or faxed to:**

(703) 872-9314, (for formal communications intended for entry)

**Or:**

(703) 306-0377 (for customer service assistance)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Allan Hoosain** whose telephone number is (703) 305-4012. The examiner can normally be reached on Monday to Friday from 8 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Fan Tsang**, can be reached on (703) 305-4895.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

*Allan Hoosain*

Allan Hoosain

Primary Examiner

6/15/04